HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 493 of 2007

Between:

Bhagyalaxmi Bamboo Workers Industrial
Cooperative Society, Kasibugga, Warangal
Rep. by President Y. RAjasekharam

… Appellant

And

The General Manager,
District Industries Centre, Warangal
& others

… Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri Ch. Ravinder
Counsel for respondent No.1 : Government Pleader for Industries
Counsel for respondent Nos.4 to 15: Shri S. Udayachala Rao

June 18, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 30.04.2007 passed by the learned Single Judge whereby he declined the appellant's prayer for quashing memo dated 20.12.2006 issued by General Manager, District Industries Centre, Warangal (respondent No.1) who

had directed the appellant society to supply bamboo to respondent Nos. 4 to 15 as usual.

We have heard Shri Ch. Ravinder, learned counsel for the appellant, learned Government Pleader for Industries and Shri S. Udayachala Rao, learned counsel for respondent Nos. 4 to 15 and are convinced that even though the record of the case depicts comedy of errors by all concerned, the order under challenge does not call for interference under Clause 15 of the Letters Patent because the decision taken by the appellant not to make available bamboo to respondent Nos. 4 to 15 was founded on a wholly erroneous assumption that they had been expelled from the membership of the society.

A perusal of the record shows that vide resolution dated 19.10.2003, the appellant society had resolved to expel respondent Nos. 4 to 15 albeit without giving them notice and opportunity of hearing. That resolution was set aside by respondent No.1 on the ground of violation of the rules of natural justice and Section 23 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, 'the Act'). Thereafter, notice dated 26.10.2003 was issued to respondent Nos. 4 to 15 proposing to take action for their expulsion, but they did not file reply. On 12.11.2003, the appellant society passed resolution to request respondent No.1 to expel respondent Nos. 4 to 15. Although the record of the case does not reveal as to when resolution dated 12.11.2003 was forwarded to respondent No.1 and whether he took any action for approval or non-approval thereof, a careful reading of the memo impugned in the writ petition shows that while considering the complaint made by respondent Nos. 4 to 15 in the matter of non-supply of bamboo by the appellant society, respondent No.1 adverted to resolution dated 19.10.2003 and opined that in view of the non-approval of the said resolution, the appellant could not refuse to supply bamboo to respondent Nos. 4 to 15. Respondent No.1 also referred to resolution dated 07.11.2006. (Copy of that resolution has not been placed on the record of the writ petition and this appeal and neither of

the learned counsel appearing before the Division Bench is possessing the copy of that resolution. Not only this, all of them unanimously exhibited ignorance about that resolution.)

The learned Single Judge noticed that action against respondent Nos. 4 to 15 had been taken in the general body meeting held on 07.11.2006 where it was resolved to request respondent No.1 to take steps for expulsion of respondent Nos. 4 to 15 and held that in the absence of an express order expelling respondent Nos. 4 to 15, the appellant society cannot refuse to supply them bamboo.

Since the resolution dated 07.11.2006 is shown to be non-existent, it is reasonable to conclude that respondent No.1 and the learned Single Judge committed an error by assuming that some resolution had been passed by the appellant society on 07.11.2006 and the same had not been approved by the competent authority.

In view of the above, we may have set aside the order under challenge and remitted the matter to the learned Single Judge for fresh adjudication of the writ petition, but having carefully and critically examined resolution dated 12.11.2003, we are convinced that it is not necessary to adopt that course because the appellant society did not pass resolution for expulsion of respondent Nos. 4 to 15. The resolution was only to make a request to respondent No.1 to expel respondent Nos. 4 to 15 from the membership of the appellant society. The same cannot, by any stretch of imagination, be construed as a resolution for expulsion within the meaning of Section 23 of the Act. This being the position, the appellant society could not have refused to supply bamboo to respondent Nos. 4 to 15 at par with other members of the society.

For the reasons stated above, the appeal is dismissed. However, liberty is given to the appellant society to pass appropriate resolution in accordance with Section 23 of the Act, after giving action-oriented notice and opportunity of hearing to respondent Nos. 4 to 15. Needless to say that the liberty given in this order will not entitle the appellant to withhold supply of bamboo to respondent Nos. 4 to 15 and

it will have to comply with order dated 20.12.2006 passed by respondent No.1.

As a sequel to dismissal of the writ appeal, W.A.M.P. No. 942 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

18.06.2007
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